



PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/905,423
	Filing Date	07/13/2001
	First Named Inventor	Patrick H. Hayes
	Art Unit	2629
	Examiner Name	Shapiro, Leonid
Total Number of Pages in This Submission	6	81230.62US2

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): - Reply Brief in TRIPLICATE - return postcard
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Customer No. 34018 Greenberg Traurig, LLP		
Signature			
Printed name	Gary R. Jarosik		
Date	November 16, 2006	Reg. No.	35,906

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Signature			
Typed or printed name	Ranni Matar	Date	November 16, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

56467106v7

American LegalNet, Inc.
www.USCourtForms.com



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Hayes et al.)	Examiner:	Shapiro, Leonid
)		
Serial No.:	09/905,423)	Art Unit:	2677
)		
Filed:	July 13, 2001)	Attny Doc.:	81230.62US2
)		
Title:	System And Method For)		
	Using A Hand Held Device)		
	To Display Product)		
	Information)		

REPLY BRIEF

Mail Stop Appeal Briefs - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Appellant hereby submits this Reply to the Examiner's Answer dated November 7, 2006.

This Reply Brief is being filed in triplicate.

The Commissioner is hereby authorized to charge any fee deficiency or credit
overpayment to deposit account number 50-2428 in the name of Greenberg Traurig.

Certificate of Mailing: I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class mail, postage prepaid, in an envelope addressed to: Mail Stop Appeal Briefs – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 16th day of November, 2006.

By: _____

Ranni Matar

REMARKS

In accordance with 37 CFR §§ 41.41(a)(1) and 41.43(b), Appellant hereby submits this Reply Brief in response to the Examiner's Answer.

It is first respectfully submitted that the Examiner's Answer demonstrates that the rejection of the claims under 35 U.S.C. § 103 failed to consider the claims "as a whole" as is required but instead demonstrates that the rejection of the claims under 35 U.S.C. § 103 was made by impermissibly distilling the claims down to a "gist" or "thrust" which "gist" or "thrust," it is further respectfully submitted, is contrary to that which is actually set forth within the claims when the claims are considered "as a whole." Specifically, the Examiner has asserted that the "Appellant's invention relates to a wide class of devices which communicating on Internet or any similar type of network." (Examiner's Answer, pg. 10). The Examiner then asserted that, within this wide class of devices, "[a]ll of those devices operate in different manners so identifying **themselves** is necessary in order to retrieve different information from the network." (Id., emphasis added). For this reason, the Examiner concluded that Daum must inherently disclose the subject matter claimed since "it is inherent during interface with a remote device to identify an appliance (portable computer, PDA's, portable telephone) and after that receive the needed information." (Id.). That the rejection was based upon an understanding of the claims that was further distilled down to a "gist" or "thrust" is further evidenced by Examiner's statement that "it would appear that Appellant is trying to reinvent basic Internet communication protocol, that is notoriously well known in the prior art." (Id.).

Turning now the claims, the claims are not generally directed to devices that identify *themselves* to a network in order to retrieve information but, when considered "as a whole" as is required, are instead directed to systems and methods in which a hand-held device uploads data

to a Web server that functions to identify *a different, further appliance* to thereby specifically retrieve an electronic document comprising human-readable information in a form for instructing a consumer how to interact with that different, further appliance, i.e., a user's manual for that different, further appliance. Thus, since the rationale provided in the Examiner's Answer in support of the rejection of the claims: a) clearly reflects a distilled interpretation of the claims that is, in fact, contrary to that which is actually set forth within the claims when the claims are considered "as a whole;" and b) relies upon inherent disclosure within the cited references that, while possibly relevant to the Examiner's incorrect, distilled interpretation of the claims, is not relevant to that which is actually set forth within the claims when the claims are considered "as a whole," it is respectfully submitted that the Examiner's Answer itself evidences that the rejection of the claims under 35 U.S.C. § 103 was impermissibly rendered. Therefore, it is respectfully submitted that, contrary to the position taken by the Examiner, it simply cannot be said that the expressly claimed "entering into (or storing within) a hand-held device data that functions to identify a consumer appliance" or "uploading the data that functions to identify the consumer appliance" to thereby retrieve a human-readable document is *inherently* taught by Daum. For this reason as well as the many additional reasons set forth within the Appellant's Appeal Brief, it is respectfully submitted that the rejection of the claims under 35 U.S.C. § 103 fails to present a present a *prima facie* case of obviousness and must be withdrawn.

It is further respectfully submitted that the claims must be found to be allowable since the Examiner's Answer continues in failing to clarify how a "diagnostic routine" can be read as being an electronic document comprising human-readable information in a form for instructing a consumer how to interact with one or more controls of a consumer appliance, i.e., a user's manual. As discussed in Appellant's Appeal Brief and not further addressed in the Examiner's

Answer, a diagnostic routine, which must be interpreted as being a sequence of instructions readable by a computer, is the antithesis of a human readable user's manual.

It is still further respectfully submitted that the claims must be found to be allowable since the Examiner's Answer continues to rely upon an incorrect reading of Daum. As discussed in Appellant's Appeal Brief and not further addressed in the Examiner's Answer, Daum simply does not disclose that "diagnostic information" is stored by appliance type and serial number as asserted by the Examiner but instead discloses that "diagnosis information" is so stored, i.e., the results of a diagnostic routine that has been previously executed upon a given appliance.

As particularly concerns claim 23, it is respectfully submitted that the Examiner's Answer fails to address the Appellant's arguments that nothing within Daum can be said to disclose the claimed browser application which reads from memory the data that functions to identify the consumer appliance and which functions to retrieve a user's manual for that appliance from a Web server located *at an address which is mapped within the hand-held device to that same data that functions to identify the consumer appliance*. Since it is evident that Daum fails to expressly or inherently disclose these specifically recited claim elements, as discussed in the Appellant's Appeal Brief, it is respectfully submitted that claims 23-27 must be found to allowable over the art of record.

As further concerns the rejection of claims 10, 16, and 27, it is respectfully noted that the Examiner's Answer continues to fail to provide any explanation as to how or why one of skill in the art would have been led by the disclosure within Allport to modify Daum to arrive at the expressly recited system in which the data that is used to set-up a remote control to control an appliance is also used to retrieve a user's manual for that appliance from a Web server.

Accordingly, it is respectfully submitted that claims 10, 16, and 27 continue to be allowable over

the art of record as a *prima facie* case of obviousness with respect to these claims has never been presented.

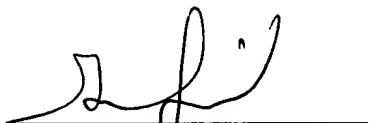
Conclusion

It is again respectfully submitted that the application is in good and proper form for allowance. Such action of the part of the Board is respectfully requested.

Respectfully Submitted;

Date: November 16, 2006

By:



Gary R. Jarosik
Reg. No. 35,906
Greenberg Traurig, LLP
77 W. Wacker Drive, Suite 2500
Chicago, Illinois 60601
(312) 456-8449

CHI 56486366v1